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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



10/532856

Applicant's or agent's file reference P61384PC00		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/NL 03/00732	International filing date (day/month/year) 28.10.2003	Priority date (day/month/year) 28.10.2002	
International Patent Classification (IPC) or both national classification and IPC G11B7/26			
Applicant OTB GROUP B.V. et al.			

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets, including this cover sheet.
 - ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 3 sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 27.05.2004	Date of completion of this report 25.01.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Damp, S Telephone No. +49 89 2399-7420 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/NL 03/00732

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-14 filed with telefax on 13.12.2004

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/NL 03/00732**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3,4,7-11
	No: Claims	1,2,5,6,12-14
Inventive step (IS)	Yes: Claims	
	No: Claims	3,4,7-11
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/NL 03/00732

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

- D1: WO 02/09103 A (TACKEN ROLAND ANTHONY ;OTB GROUP B V. (NL); HENDRIKS CHRISTIAN ETIE) 31 January 2002 (2002-01-31)
- D2: PATENT ABSTRACTS OF JAPAN vol. 010, no. 358 (P-522), 2 December 1986 (1986-12-02) -& JP 61 153850 A (MATSUSHITA ELECTRIC IND CO LTD), 12 July 1986 (1986-07-12)
- D3: PATENT ABSTRACTS OF JAPAN vol. 016, no. 046 (P-1307), 5 February 1992 (1992-02-05) & JP 03 248342 A (NEC CORP), 6 November 1991 (1991-11-06)
- D4: EP-A-0 346 650 (IBM) 20 December 1989 (1989-12-20)

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 2 and 5 is not new in the sense of Article 33(2) PCT.

The document D2 (abstract) discloses :

Fabrication of a master plate to produce a stamper plate for disk manufacturing, using two photoresists of different sensitivity (thus resulting in different solubility) with a lower sensibility of the layer being directly on the substrate (thus having lower solubility).

While D2 describes two layers of different sensitivity, present claim 1 defines "a trend along the normal to the photoresist layer". From the general meaning of "trend", the definition of a 'step' is seen to be included. Otherwise, objections under Article 6 PCT (clarity) arise.

Moreover, dependent claim 2 and independent method claim 5 define the application of two separate layers of different solubility (after light exposure and development) and the embodiments of the description only show two layers as realization of a "trend".

The subject-matter of claims 6, 11, 14 is evident in view of D2 (novelty, Article 33(1)(2) PCT).

The subject-matter of claims 3, 4, 7-10, 12, 13 define mere design features from which the skilled man will select without the exercise of inventive skill (Articles 33(1)(3) PCT) and can be derived from a combination of documents D1, D2, D3.